

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

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U.S. DISTRICT COURT
SAN JUAN PR

1 LUIS M. SANTINI-ROSADO,

2 Plaintiff,

3 v.

CIVIL NO. 98-1687 (RLA)

4 BANCO BILBAO VIZCAYA,

5 Defendant.

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9 MINUTES AND ORDER OF PRETRIAL/SETTLEMENT CONFERENCE
10 HELD ON FEBRUARY 8, 2000

11 The parties appeared before the undersigned in chambers for a
12 Pretrial/Settlement Conference on February 8, 2000, from 3:00 p.m. to
13 5:10 p.m.

14 DEMETRIO FERNANDEZ, ESQ., represented plaintiff. Defendant
15 BANCO BILBAO VIZCAYA was represented by ROSA M. MENDEZ SANTONI, ESQ.
16 and HILDA M. SURILLO PEÑA, ESQ.

17 **Discovery Delays**

18 The Court queried counsel as to their readiness for trial,
19 scheduled to commence on February 16, 2000. Counsel for defendant
20 explained that, as informed in its motion for reconsideration
21 (docket No. 28, filed on January 31, 2000) it had been unable to
22 carry out discovery relative to plaintiff's economic expert. It had
23 also been unable to have its expert evaluate plaintiff's mental
24 condition due to his failure to appear for the January 17, 2000
25 appointment. Counsel further alleged that plaintiff's tardy
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1 submission of expert reports had caused defendant to be prejudiced in
2 its preparation for trial. For those reasons, defendant's counsel
3 requested that the trial be postponed and an extension of time be
4 granted to complete experts' discovery, or that plaintiff's expert be
5 stricken. When asked, plaintiff advised that he had no objections to
6 defendant's request for continuance.

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8 The Court recounted briefly the procedural background of the
9 case, making note of the inordinate and unjustifiable delays to date,
10 as described in the undersigned's Order Denying Second Request for
11 Continuance... (docket No. 27, filed on January 28, 2000).
12 Accordingly, defendant's motion for reconsideration of the Court's
13 denial of an extension of discovery deadlines (docket No. 28) was
14 **DENIED** and the parties were directed to proceed to trial as
15 scheduled.

16 The Court **FURTHER ORDERED** that as a sanction for the parties'
17 violations of its case management/discovery Order, all expert
18 witnesses in this action are **STRICKEN**.

19
20 **Admissions of Fact**

21 Counsel for defendant argued that plaintiff should not be
22 allowed to present evidence of his mental/emotional state while
23 employed at the Bank because her client has no expert witness to
24 rebut his allegations that he suffered an emotional breakdown as a
25 result of the confrontations with Bank officials. The Court having
26 heard plaintiff's arguments on the relevancy of this information

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1 hereby FINDS that plaintiff can testify as to his mental/emotional
2 breakdown provided such testimony is tied to the harassment that he
3 allegedly was subjected to by Bank officials. Plaintiff shall not be
4 permitted, however, to introduce into evidence the file of the State
5 Insurance Fund absent a particularized showing of relevance as to the
6 above-mentioned climate of harassment.

7
8 Upon further review, plaintiff's Motion Regarding Filing of
9 Proposed Joint Pretrial Order (**docket No. 32**, filed on February 4,
10 2000) is hereby **GRANTED**. It is hereby ORDERED that Paragraph Nos. 10
11 and 11 of plaintiff's Complaint shall be deemed admitted by defendant
12 and are hereby incorporated as Admitted Facts in the Joint Proposed
13 Pretrial Order.

14 Settlement Negotiations

15 In response to the Court's inquiry, counsel for defendant
16 rejected the possibility of plaintiff's reinstatement. For purposes
17 of settlement discussions, the Court consulted counsel on their
18 positions relative to the preliminary report prepared by plaintiff's
19 economic expert and discussed with them the various scenarios
20 resulting from an award of back and front pay, including salary and
21 fringe benefits.

22
23 Subsequently, the Court engaged counsel individually in
24 settlement discussions. The attorneys representing defendant
25 informed the Court that they had not received any settlement offer
26 that was worth considering, because plaintiff was demanding

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1 an unreasonable sum. Additionally, plaintiff had requested
2 reinstatement in the Bank's health plan, a petition which was deemed
3 unfeasible given the Bank's refusal to reinstate plaintiff.

4 In discussions with plaintiff's counsel, the Court suggested a
5 proposed sum for settlement and requested counsel to consult with his
6 client, who was waiting outside the chambers. Upon his return,
7 counsel for plaintiff informed the Court that plaintiff was
8 considering the proposed sum and would advise counsel in the next 24
9 hours.

10 The Court then spoke again with defendant's counsel and proposed
11 a settlement amount which counsel agreed to present to their client.
12 The Court directed counsel to inform the Court on the next day of
13 their efforts.

14 Accordingly, and in light of the fact that settlement was not
15 reached at the Conference, the Court reminded counsel that the **JURY**
16 **TRIAL remains scheduled for February 16, 2000, at 9:30 a.m.**

17 The parties shall file the TRIAL BRIEFS, PROPOSED JURY
18 INSTRUCTIONS, VOIR DIRE and VERDICT FORMS **no later than February 11,**
19 **2000.**

20 Counsel shall make arrangements to meet with the Courtroom
21 Deputy to mark the evidence **prior to trial** in accordance with the
22 undersigned's Standing Order for Civil Trials issued on February 10,
23 1994.

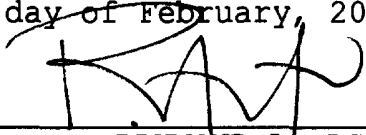
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1 Failure to comply with the terms of this Order shall result in
2 the imposition of sanctions upon counsel personally and/or the
3 striking of witnesses, claims and/or defenses.

4 IT IS SO ORDERED.

5 San Juan, Puerto Rico, this 11th day of February, 2000.

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7 RAYMOND L. ACOSTA

8 United States District Judge
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